



May 14, 2009
Via E-Mail

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: **COMMENTS ON DRAFT EIR FOR 555 WASHINGTON STREET**
Project No. 2022.0133E

Dear Mr. Wycko:

Telegraph Hill Dwellers (THD) write to provide comments on the Draft Environmental Impact Report ("DEIR") prepared for this project. For the reasons listed below, we believe that the DEIR is incomplete and inadequate. Our main areas of concerns that are not properly addressed in the DEIR are: (1) the environmental impacts resulting from "**spot zoning**" the site for a height increase that would double the current zoning limit, (2) **the proposed demolition** of two buildings, one of which is eligible for both the California and National Registers of Historic Places according to the Planning Department's own documents and analysis; (3) the **shadow trade off deal** whereby new shadows would be allowed on two existing public park sites in exchange for transferring Redwood Park to the City's jurisdiction; (4) the underlying assumption that the City will **sell Mark Twain Alley** (formerly Merchant Street) to accommodate this project; (5) the need to consider adequate and objective **alternatives**; and (6) failure to consider the **cumulative impacts** of this project together. In general, the DEIR fails to present objective information and analysis, but is filled with judgments and conclusions not based on facts.

The DEIR is incomplete and inadequate with respect to the following:

INADEQUATE PROJECT DESCRIPTION (Section 2.0)

Residential or Office? The project description in the DEIR is not stable and finite as required by CEQA. The three "variants" enumerated in the DEIR -- residential, office and a residential variant with larger units -- are very different projects, which could result in disparate impacts. Is it a residential project or an office project? What is the ultimate design of the building? As shown in the DEIR, the building design will differ quite significantly depending on whether the project sponsor chooses to build a residential or an office building. Without an accurate view of

the project and its proposed purpose, affected residents and public decision-makers cannot balance the proposal's benefits against its environmental costs, consider mitigation measures, assess the advantages of rejecting the proposal, or weigh other alternatives.

Project Objective Unclear. The DEIR project description is also inadequate because it does not contain a clearly written statement of the objectives or underlying purpose of the project. Given the project sponsor's three "variants" it is clear that the project objective is not to provide housing, nor is it to provide additional office space in the C-3 district. As described on page S-4 and 2-24, the project sponsor's primary project objective is "*[t]o own and operate in San Francisco's Financial District a Class A residential or office and retail building with at least 200 units or 300,000 square feet of commercial space.*" In other words, the only identifiable objective is to build a large building, regardless of its use. The DEIR effectively concedes there is no purpose to this development, except to reap economic benefits for the project sponsor.

The remaining four objectives listed are not project "objectives" or "purposes." They are either necessary in order to build the proposed building (i.e. acquiring the land within the public right of way to partially satisfy the project's open space requirements and to increase the size of the project's underground parking garage by extending under the Alley) or trade offs (i.e. expanding and dedicating Redwood Park to the City in exchange for being allowed to add new shadows to two existing public parks). These are not appropriate project objectives or purposes and should be deleted.

Other "objectives" listed in the DEIR are conclusions or judgments concerning the desirability of the project's design, aesthetics, consistency with neighborhood character, and its relationship to the adjacent Jackson Square Historic District – each of these are issues that are potential environmental impacts of the project and must be, but have not been, objectively analyzed in the DEIR.

Include Accurate Depiction of Existing and Proposed Site Plan and Conditions.

In order to be accurately compare what exists on the project site today and what is being proposed by the project sponsor, please include an accurate depiction of the existing site conditions along with an accurate depiction of all proposed changes to the site -- at the same scale, including measurements of the current and proposed "added" areas within "Redwood Park."

DEIR DOES NOT ADEQUATELY CONSIDER ENVIRONMENTAL SETTING AND IMPACTS (Section 3.0)

1. Land Use (Section 3.1): The DEIR Does Not Adequately Address Impacts on the City's Land Use Plans And Policies from the Proposed Spot Zoning to 400 Feet

The DEIR states that "[n]o significant land use impacts would occur," from the proposed project, which would be twice as high as the height limit (400 feet in an area zoned for 200 feet), even though it would require an amendment to the City's existing Zoning Map and would be in conflict with the urban design elements of the General Plan.

Remarkably, the DEIR contains a statement on page 3-12 that ***“Since the [height] reclassification is a part of the proposed project, there would be no land use impact relating to conflicts with plans, policies, or regulations.”*** This makes no sense at all. The height increase is the single most significant physical impact of the project on the environment, which must be analyzed in the EIR. Please explain the basis for this statement.

Contrary to the statement included in the DEIR, an EIR must address a project’s potentially significant impacts on the City’s land use plans and policies that ***were adopted for the purpose of avoiding or mitigating the impacts of new development***, and which ***directly relate to the physical impacts*** the project will have on the environment of the area.

Specifically, the DEIR fails to address how the proposed spot zoning of this single site to 400 feet complies with the specific objectives and policies of the Urban Design Element of the General Plan, which were adopted for the purpose of avoiding or mitigating the impacts of new development on the urban form. The DEIR must disclose and consider the project’s conflicts with the following:

OBJECTIVE 3: MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLIMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

POLICY 3.1: Promote harmony in the visual relationships and transitions between new and older buildings.

POLICY 3.3: Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

POLICY 3.4: Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

POLICY 3.6: Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

POLICY 12.3: Design new buildings to respect the character of older development nearby.

POLICY 13.1: Relate the height of buildings to important attributes of the city pattern and to the height and character of existing and proposed development.

OBJECTIVE 15: CREATE A BUILDING FORM THAT IS VISUALLY INTERESTING AND HARMONIZES WITH SURROUNDING BUILDINGS.

POLICY 15.1: Ensure that new facades relate harmoniously with nearby facade patterns.

POLICY 15.3: Encourage more variation in building facades and greater harmony with older buildings through use of architectural embellishments and bay or recessed windows.

POLICY 1.4: Protect the historic and aesthetic resources of Chinatown.

Include a Summary of History and Evolution of this Block and its Zoning. In order for the citizens and decision-makers to fully consider the impacts of the proposed rezoning of this single site from 200 feet to 400 feet, the DEIR is incomplete without the inclusion of a discussion and analysis of the history of this block and its relationship to the Pyramid Building development which triggered the adoption of the existing urban design elements of the Downtown Plan and established the height limits in this area, including the gradual stepping down to 200 feet at the edge of the downtown. The DEIR should answer such questions as: How were the current height limits arrived at? How will the proposed project conflict with these significant planning decisions that have shaped our urban landscape for the last 20-30 years? What relationship is there between the previously vacated portion of Merchant Street and creation of Redwood Park? How would the spot zoning of this single site on Washington Street to 400 feet impact the urban design elements of the Downtown Plan, which consciously changed height limits to 200 feet at Washington Street with a gradual stepping up toward California Street to 400 feet?

It is critical that the transition between the Downtown core and the low-rise historic districts of Jackson Square, Chinatown and North Beach be respected – and that the delicate balance between downtown and the historic neighborhoods be maintained from further erosion.

2. Aesthetics (Section 3.2): The DEIR Does Not Adequately Address the Project's Impacts on Aesthetics

Aesthetic and Urban Design Effects. The DEIR concludes that “[n]o significant aesthetic impacts would occur,” from the proposed project, but fails to adequately discuss the potential visual effects of the proposed new building on Jackson Square Historic District or on scenic views of the Transamerica Pyramid.

- What is the basis for the judgment made by the DEIR that it is desirable to attempt to “*more clearly define the edge*” between the Jackson Square Historic District and the Financial District by constructing a building with a greater height differential and a modern design (tall cylinder) and materials (grey-blue/green glass)? This conclusion is inconsistent with the Urban Design Element of the General Plan (see objectives and policies listed above).
- The DEIR must consider that the size and design of the proposed project would contrast significantly with the smaller, finer-scale character of development in Jackson Square, and in particular with the historic buildings across Washington Street from the subject site, all of which are between 30 –36 feet in height. In contrast to the DEIR’s conclusion that such a contrast in height between these historic buildings and a 400-foot glass cylinder is a positive objective of the project, the proposed height and design of the proposed project may constitute a “substantial degradation” of the visual character of the area, an impact that could potentially be reduced through alternative designs within the existing height limit. This impact was not described and considered in the DEIR

Scenic Vistas and View Corridors. The DEIR concludes that: “the project’s visual impacts would be considered less than significant.” This is a subjective judgment made by the DEIR rather than an independent presentation of the facts.

- What is the basis for this judgment made by the DEIR? It conflicts with the photo montages contained in the DEIR and contradicts the statement made (on page 3-42) that: “the proposed project or office variant would result in noticeable and visual changes, intensify development and alter views from vantage points in the surrounding area.”
- Visual impacts on scenic vistas and view corridors must be accurately analyzed. Views of the Transamerica Pyramid, an internationally recognized landmark on the San Francisco skyline that has been determined to be a historic resource (on page 3-54 to 3-57), would clearly be impacted from many vantage points far and wide. Based only on the photomontages included in the DEIR, the proposed new building would dominate and obscure views of the Pyramid Building from along the Columbus Avenue corridor, from Maritime Plaza, and from many points on Telegraph Hill.
- The few photomontages presented in the DEIR to show the difference between the proposed new building at 400 feet in height vs. a code-complying alternative within the height limit of 200 feet, clearly show that the impact of the proposed new building on scenic views of the Pyramid Building would be extremely significant.

Light and Glare. The DEIR concludes that the project would have less than significant light and glare impacts because the project would comply with City Planning Commission Resolution 9212, which prohibits mirrored or reflective glass, and because it would not result in additional glare beyond that of other typical buildings in the area.

The DEIR admits that the new building will emit more light than the existing building “due to the proposed building’s larger size and area of glazing.” What is the measurable additional light impact generated by the proposed new building’s additional mass? How would this compare to the measurable light impact from a code-complying building? What is the measurable light from the existing building? How does the total square footage of glazing on the existing building compare to the total square footage of glazing on proposed new building?

Please explain how the conclusion was reached in the DEIR that the proposed new building together with a proposed nearby building at 8 Washington would not have cumulative light impacts. What is the total additional light output of the two building combined? What measurements were used in reaching the conclusion contained in the DEIR? Please provide the same information for the office variant.

3. Cultural Resources (Section 3.3): The DEIR Does Not Adequately Address or Analyze Impacts on the City’s Cultural Resources

Impacts on Archeological Resources. The DEIR is inadequate and incomplete in that it fails to disclose and consider the significance of the remains of the historic ship *Niantic* (California

Historical Landmark No. 88) a portion of which was rediscovered during construction on the project block in 1978 during excavation for the Mark Twain Plaza Complex next to the Transamerica Building. It is common knowledge that the remains of this enormous whaling ship lay beneath the project site.

What is the exact location of remainder of this buried 120 foot-long ship? What would the potential impact be on this buried ship of excavating for the underground garage and foundations for the project – whether two stories of underground garage for the “office variant” or the four stories of underground garage for the “residential variant,” particularly as to the excavation proposed under Mark Twain Alley? Could excavation of the hull impact adjacent buildings? Given the knowledge that the buried *Niantic* exists under the project site, its specific location and the project’s potentially significant impacts on this archeological resource are inadequately assessed in the EIR. The mitigation plan is inadequate to address the potentially significant impacts that are known or should be know this time.

Demolition of 545 Sansome Street. The project would require the demolition of a building considered ground zero of the birthplace of the San Francisco printing industry. The DEIR is internally inconsistent and woefully inadequate in its handling of this important issue. In addition, the measures proposed to mitigate for this significant impact are inadequate.

The DEIR contains information to show that the existing building at 545 Sansome Street is appears eligible for listing in the National Register of Historic Resources and that it retains sufficient integrity to be an historical resource. Clearly both the Planning Department’s Preservation Technical Specialist and one of the architectural historians cited in the DEIR disagree with the historic architectural consultant who was retained by the project sponsor as to the building’s integrity. Please explain these internal discrepancies. On whose opinion does this DEIR rely on and why?

Footnote 8 on page 3-51 of the DEIR references a “Historic Resource Evaluation Response” memo (“HRER memo”) prepared by the Department’s Preservation Technical Specialist in March 2009. The contents of the report are not clearly or adequately set forth in the Draft EIR. After reviewing this Planning Department memo, the inadequacy of the DEIR is glaring with respect to its treatment of 545 Sansome, not only as to the building’s significance to San Francisco’s printing industry, but as to the fact that this building was rated for its contextual importance.

It would be critical for the DEIR to answer the following questions:

- Who is the “independent” historical architectural consultant referenced so obliquely on page 3-52 of the DEIR? Who paid that consultant’s fees – the City or the proposed developer for this project? It was our understanding long before the DEIR was prepared that Patrick McGrew had prepared a historic resources evaluation for the project sponsor. Explain on what basis did this consultant find that 545 Sansome does not retain sufficient integrity?

- How is the Planning Department's Preservation Technical Specialist's conclusion that demolition of 545 Sansome would be a significant adverse impact that cannot be mitigated reconcile with the proposal's intent to demolish this building and the DEIR conclusion that there are no other acceptable alternatives? Explain on what basis did Planning Department's Preservation Technical Specialist find that 545 Sansome does retain sufficient integrity? Disclose and discuss the building's Contextual Importance.

Because of the inconsistent information presented in the DEIR, the reader is left with the impression that this building could very well be the birthplace of San Francisco's printing business, yet its demolition is acceptable as long as an exhibit commemorating it is created. The DEIR does not adequately address or mitigate project impacts this historic resource.

As an alternative mitigation to an exhibit, the DEIR states at page 4-6 that *"the project applicant may be eligible to mitigate related impacts by contributing funds to the City to be applied to future historic preservation activities..."*

What City policy or ordinance would encourage or permit demolition of historic resources in return for a donation or payment to a preservation organization or fund? Please explain the basis for this proposed mitigation and what historic preservation fund or organization this refers to?

Impacts on Jackson Square Historic District, Chinatown and North Beach. The DEIR contains subjective judgments and conclusions regarding the relationship of a 400-foot building to the small finer-scale character of the historic buildings in Jackson Square, Chinatown and North Beach.

The DEIR failed to consider that the definition of "small-scale" does not only address building height; it also addresses the sizes of parcels within a block and the overall size of the block. By aggregating multiple properties, the proposed project inadvertently destroys the small-scale nature of the typical San Francisco block; this is particularly problematic when it occurs in blocks adjoining a designated historic district.

Also contributing to scale are Mid-block alleys, which support a vibrant downtown, provide mid-block relief including sun and air, and are in keeping with the small-grain fabric of San Francisco. The revitalization of downtown alleys (clearly restated as policy in the most recent Market-Octavia Plan) is a key policy objective for a pedestrian-friendly downtown. The DEIR is inadequate in its failure to address the proposed loss of Mark Twain Alley on the small-grain fabric of the area.

The proposed project will create a TransAmerica "superblock" -- an oddity in its location -- that is particularly incongruent with the adjoining historic neighborhoods of Jackson Square, Chinatown and North Beach. The DEIR is inadequate in its failure to address these potentially significant impacts.

An objective presentation of the transition between the proposed building and the small finer-scale character of these historic neighborhoods must be included in the DEIR, taking into consideration how the proposed building would comply with each of the following:

“Promote harmony in the visual relationships and transitions between new and older buildings” [General Plan Objective 3, Policy 3.1]

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development. [General Plan Objective 3, Policy 3.4]

Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction. [General Plan Objective 3, Policy 3.6]

Design new buildings to respect the character of older development nearby. [General Plan Objective 12, Policy 12.3]

Please include a professional assessment of all potential construction impacts to the nearby historic buildings, including without limitation, damage to masonry that could be caused by the vibration from pile driving and the impacts of dewatering the project site during construction.

North Beach Historic District. The DEIR fails to contain any information or facts regarding the proposed project’s impacts on the historic resources and potential historic district of North Beach. There is extensive documentation of these resources that should have been disclosed and addressed in the DEIR.

4. Transportation and Circulation (Section 3.4): The DEIR Does Not Adequately Address or Analyze Impacts on Transportation and Circulation

The DEIR concludes that “[n]o significant transportation impacts would occur,” from the proposed project, but fails to disclose (as to the residential variant) exactly how the project will comply with existing Planning Code Requirements for off-street parking for uses in the C-3 district that were enacted due to the compact nature of the area and the relatively high accessibility of transit service provided. The DEIR states that the Planning Code would allow up to 215 spaces if the proposed project were found to conform to these criteria. Please explain exactly how the proposed project will comply with each the Planning Code criteria, including how it will:

- Maximize space efficiency and discourages vehicle use for commuting or daily errands
- Comply with the applicable inclusionary housing standards
- Not impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district

Include an explanation of how the Planning Code Requirements for off-street parking are different for the “residential variant” and why?

As is the case with the DEIR in general, this section is filled with judgments and conclusions not based on facts. Please provide an objective analysis of the DEIR's finding that 85 new delivery trucks per day (for the office variant) would be a less-than-significant effect on traffic. Another example the statement that "*Except for the potentially dangerous condition due to the driveway with the office variant, pedestrian impacts would be less than significant.*" Another example is the fact that it fails to adequately explain away the fact that the City's MTA has expressed concern that the amount of queuing space proposed for the parking garage would be inadequate.

We are concerned that potential impacts on pedestrian safety on key traffic corridors have not been adequately evaluated. The DEIR does not adequately address pedestrian safety as well as the potential degradation of the pedestrian-oriented experience in the area.

The DEIR states that the proposed project, which would include the acquisition and renovation of Mark Twain Alley, would eliminate the loading area for the building at 505 Sansome. Although presented as a desirable objective of the project, how would the loading requirements of 505 Sansome be accommodated elsewhere? This impact of the proposed project on the relocation of these loading requirements should be included in the analysis of the project's impacts freight loading impacts traffic.

The vastly different parking & traffic impacts between the alternatives – office vs. residential should be more clearly spelled out and compared.

Further as to the project's impacts on traffic, why is it necessary to include so much parking in this project? How does the amount of parking proposed comply with the City's Transit First Policy?

5. Shadow (Section 3.5): The DEIR Does Not Adequately Address or Analyze Impacts on Impacts on Shadow and Wind

The shadow impact analysis contained in the DEIR is inadequate in that it is not using a 3-D model that clearly shows building massing and shadow effects.

Shadow diagrams are too small to be readable. The effects of cumulative shadows, including the shading of sidewalks and open spaces that will be caused by the SF City College District's Chinatown-North Beach Campus, is impossible to read or understand.

The DEIR concludes that the dedication of Redwood Park to the City would result in "new sunlight on public parks" which would somehow allow the new building to degrade sunlight on two other parks protected by Proposition K -- Maritime Plaza as well as Bierman Park. Is there "old" sunlight? The DEIR states that conveyance of the Redwood Park open space to the City would create "*a new downtown park protected by Proposition K,*" but at the same time the proposed new building would cast new shadow on two existing public parks that are (supposedly) protected by Proposition K from any new shadow impacts. The choice of words

and statements used throughout the document render it inadequate to fulfill the purposes of an EIR under CEQA.

The analysis on page 6-18 of the DEIR is not objective, but reads as if written to promote the proposed project over the code-complying project. Please disclose how the calculations of “solar foot hours” were arrived at in determining the amount of sunlight that would be provided by the dedication of Redwood Park – exactly what surface area is being used in these calculations. Is the area within the public right of way (Mark Twain Alley) included in these calculations? Are the areas that will be used to meet the project’s Code-mandated open space requirements included in these calculations? Are areas of private open space included in these calculations? Please include a diagram depicting the exact area included in the calculations. How do these calculations take into account the fact that the trees shade Redwood Park? Because these facts are not disclosed, the DEIR is incomplete.

We hereby incorporate by reference the comments submitted by Sue Hestor on behalf of **San Franciscans for Reasonable Growth** with regard to the shadow impacts of the proposed project.

6. Population and Housing (Section 3.7): The DEIR Does Not Adequately Consider the Project’s Impacts on the City’s Housing Needs.

Although as described and analyzed in the DEIR the proposed project is not necessarily a residential project, the DEIR is incomplete and inadequate as to its analysis of the “residential” variant in the following ways:

How does this project relate to the objectives, policies and goals of the Housing Element of the General Plan?

What is the potentially significant impact upon the cost of existing housing in the surrounding neighborhoods that may result from adding 248 new, market-rate, luxury condos to the area’s housing supply. Although the project sponsor claims that these new condos will reduce urban sprawl, how can this be shown? Why wouldn’t the higher costs and values resulting from this project, together with other new market rate housing in the area, exacerbate sprawl if working-class people have to go elsewhere to find housing they can afford? The EIR should present factual buyer profile information from sprawl areas (such as Antioch, Brentwood, etc.) to be compared to: 1) the buyer profile of the proposed project; and 2) housing production in San Francisco available to “sprawl” area buyers. What would prevent these condos from being sold to foreign investors and/or as second homes?

What are the requirements for including permanent below market rate (BMR) units of housing in the residential variants of this project? There is hardly any discussion of affordable housing, no mention of considering on-site BMR units or any mention of how, or where, in-lieu funds would be used. Would they be used within a 1-mile radius of the project?

Please include a specific analysis of the project's impacts on housing needs by various income categories. How does this project enhance affordable housing?

We also incorporate by reference the comments submitted by **Chinatown Community Development Center (CCDC)** with regard to the impacts of this project on housing.

7. Air quality (Section 3.9): The DEIR Fails to Address the Impacts of the Proposed Parking Garage on Air Quality

The DEIR fails to present factual project-specific information on any potential impacts of the project in relation to any state, regional or local air quality plans, and standards and criteria as listed in Section 3.9. Although not identified in the DEIR's description of the project, the project sponsor indicated to our Planning & Zoning Committee that the project would be "LEED" certified. Is it proposed to be "LEED" certified? Why is this not discussed in the DEIR?

As to the residential variant, the DEIR fails to address specific impacts on air quality of proposed new subsurface four-level parking garage. According to the project description, ingress/egress to the underground 230-space parking garage would be provided from Washington Street by way of a "car elevator." What are the air quality impacts of this increased volume of cars, especially when taking into consideration the impacts of them being queued up to get onto the car elevator? Where would the garage be vented? Would it be vented into the park or into the adjacent public right of way? Air quality impacts on pedestrians and those using the existing open space must be considered in the EIR. How many vents will be required? Where will they be located? What will be the physical dimensions of each vent? What will the odor impact be? Please provide the above requested information for the office variant as well.

It would appear that a "Green" Alternative would be one that minimizes parking rather than proposing more parking than the code allows. Reducing parking would lessen project impacts on traffic/circulation as well as on air quality.

8. Biological Resources (Section 3.13): The DEIR Does Not Adequately Address or Analyze the Projects Potential Impacts on Birds or on the Redwood Trees

Bird Kills. The DEIR fails to mention or consider the potentially significant impacts on birds flying into the large expanses of glass that will comprise the proposed new building. As described in the DEIR at page 3-20, the building will not be visible to birds who will fly into it: *"the glass skin on the building would appear a transparent grey-blue/green on a sunny day – the color of the sky – or grey/green on an overcast day."*

Please calculate projected annual bird kills from the square footage of glazing proposed for the new building. How will the additional square footage of glass on the proposed building, lead to increased annual bird kills? Please make the same calculations for daytime as well as for a lighted building at night.

How will the glazing on the proposed building as designed impact bird kills as compared to a building with a divided pattern of windows such as that on the existing building.

Redwood Trees. Redwood Park is filled with 54 Coast Redwood trees, with diameters up to 32.5 inches and heights up to 60-70 feet. As a part of the “project” the developer intends to transfer these trees to the City. At pages 3-160 to 3-161, the DEIR identifies potentially significant adverse health impacts on the redwood trees by construction of the proposed project: **“Because of the proximity to the proposed new structure, root loss may occur.”** The DEIR further states that: **“Because of the height of the proposed building and of the trees, treatment would be required to protect the upper crown of the trees.”**

Although a protection and mitigation plan is proposed to be prepared later *“prior to any demolition or construction for the project,”* these trees could be completely destroyed by this project.

Who hired the Consulting Arborist who prepared a report in 2006 (referenced in footnote no. 80)? Who was the study prepared for? Has the City conducted its own independent City-sponsored study of potential impacts to these significant trees from the construction of each of the proposed project variants? Are impacts different depending on office variant (2 floors of underground parking) as opposed to the residential variant (4 floors of underground parking)?

In light of this potentially *very significant impact*, an independent City-sponsored study of potential impacts to these significant trees from construction should be prepared *prior to project approved*, as a part of the EIR, particularly in light of the fact that the developer is proposing to make these trees a City-owned resource as a part of this project.

NO CUMULATIVE IMPACTS SECTION

The EIR should contain a section discussing cumulative impacts, identifying all past, present and future projects in the area that exceed the existing height limits, including, the I-Hotel project and the proposed Chinatown-North Beach Campus project as well as others, and detailing all potential cumulative impacts of these projects. The DEIR fails to examine the cumulative impact that “spot zoning” of individual sites would have on the City’s urban form.

In addition, the DEIR fails to analyze the cumulative impacts on affordable housing in the area of all past, present and future condo projects in the area, including, for example, the Washington-Montgomery Tower, the Belli Building, and the new condos on Montgomery, where the former Ernie’s restaurant was located.

The DEIR fails to adequately address the cumulative impacts on other environmental impacts discussed above, particularly as to traffic congestion and degradation of air quality.

PROJECT ALTERNATIVES (Section 6.0)

Code-Complying Alternative (pages 6-5 through 6-19)

The “Code-Complying” alternative contained in the DEIR is not code complying in a number of ways, including the following:

1. The “Code-Complying” alternative in the DEIR casts shadows on two City-owned parks in violation of the City’s Sunshine Ordinance (Prop K). A code-complying project must be designed to comply with this voter-enacted prohibition on shading public parks.
2. The “Code-Complying” alternative in the DEIR still assumes that the City will sell publicly-owned Mark Twain Alley (formerly Merchant Street) to the developer for two purposes: (1) to meet a portion of the development’s Code-mandated open space requirements (the balance of which would require a Variance), and (2) to use the land below the right-of-way for the proposed underground garage levels (4 levels for the residential variant, 2 levels for the office variant). A code-complying project should not assume that Mark Twain Alley is “for sale.”
3. The “Code-Complying” alternative in the DEIR is a bulky box-like structure that is inconsistent with the design principals for buildings in the downtown area contained in the Urban Design Element/Downtown Element of the General Plan. The DEIR assumes that the only building that can be constructed within the existing height limit is a bulky, squat box-like structure with a larger footprint. However, as pointed out by a Planning Commissioner at the public hearing on the DEIR held on May 7th, it is “ridiculous” to assume (as does the DEIR) that any building, which complies with the 200 foot the height limit on this site, would by necessity be an ugly box with a bad design. The DEIR language is inappropriate, full of innuendos and personal opinions rather than clear factual analysis – the DEIR fails to show a competently designed and code-complying building that could be considered an alternative.

While we compliment the proposal for maximizing sunlight and presenting an interesting form, the DEIR does not explain why this could not be accomplished within the current height and bulk limits. What is the development envelope and density allowed of right on this site? What exactly would the current codes and policies allow to be built on the site? How did the project sponsor calculate the FAR for the code-complying alternative? Would the policies and objectives of the Downtown Plan allow such a bulky poorly designed building on this site? The Downtown Plan clearly calls for buildings where the whole is more important than one piece. We see no basis for the DEIR’s conclusion on page 3-19 that “[w]hile intensifying the use of the project site, the proposed project would not add a new or visually inconsistent presence to the area. In conflict with the policies and objectives of the Downtown Plan, the current proposal suggests a stand-alone signature building, visually incongruent with its context, adversely affecting the ‘iconic’ pyramid and overpowering the adjoining historic districts.

Please include in the DEIR a well-composed, well-designed a code-complying alternative that is consistent not only with the height limit, but with the design principals for buildings set forth in the Urban Design Element and Downtown Plan contained in the City’s General Plan, including

those principals that would require compatibility with the character and scale of the immediate setting, including Jackson Square Historic District and North Beach. Please refer to the specific objectives and policies of the Urban Design Element of the General Plan cited above in this letter under the discussion of the project's impacts on the City's land use plans and policies.

4. The DEIR makes the subjective judgment that the "Code-Complying" alternative within the height limit of 200 feet would not "*complement the iconic Transamerica Pyramid.*" Why couldn't a building within the existing height limit be designed to "compliment" and not compete with the Transamerica Pyramid? The DEIR also states that a code complying alternative "*would not create a project that is both consistent with the neighborhood aesthetic and highlights the adjacent Jackson Square Historic District*" because it would not create a "*sufficient contrast*" between the proposed project and the adjacent Jackson Square. What requires such a dramatic "contrast"? Why is such a contrast desirable? How is this consistent with the gradual stepping down of the height limits from California Street to Washington Street contained in the City's zoning maps and Downtown Plan? How can this conclusion and judgment of the DEIR be justified based on the objectives and policies of the Urban Design Element of the General Plan cited above in this letter?

5. Remarkably, the DEIR states that the "Code-Complying" alternative would have greater impacts on traffic because ***it would have a higher resident population than the proposed project.*** What does this mean? Please explain the basis for this assumption. Would a building within the height limit of 200 feet provide more housing units than the proposed building at over 400 feet? If the spot zoning will not result in a greater number of affordable housing units, what are the economics of such a proposal, what are the net costs to the quality of the urban design of the City by doubling the height limit on this single site? Why would the code-complying building necessarily have a greater resident population? What resident population would be allowed under the current Planning Code without a Conditional Use authorization for residential density in excess of that permitted under Planning Code Section 215(b)? The code complying alternative must not assume that the Planning Commission will approve this Conditional Use authorization; rather it should assume compliance with Section 215(b). The code complying alternative must not assume that the parking garage can be built under Mark Twain Alley.

6. The "Code-Complying" alternative should be within the allowable FAR for the site and not require any conditional use authorizations or variances. As to the residential variant, it must meet the open space requirements for a residential structure without using a publicly owned street or requesting a Variance from the open space requirements.

Preservation Alternative (pages 6-20 through 6-28)

The DEIR also states that the "Preservation Alternative" would require the construction of a new residential building as an addition to the existing building at 545 Washington. Although there is no design proposed in the DEIR for the addition, the DEIR concludes, as it did with the Code-Complying alternative that the Preservation Alternative "*would not create a project that is both consistent with the neighborhood aesthetic and highlights the adjacent Jackson Square Historic District*" because it would not create a "*sufficient contrast*" between the proposed

project and the adjacent Jackson Square. What is the basis for this judgment in the DEIR that it is desirable to attempt to “*more clearly define the edge*” between the Jackson Square Historic District and the Financial District by constructing a building with a greater height differential and a modern design (tall cylinder) and materials (grey-blue/green glass)? This conclusion is inconsistent with the Urban Design Element of the General Plan (see objectives and policies listed above).

In Bullet point 2 on page 6-29, the DEIR states that: “*The preservation alternative would not complement the iconic Transamerica Pyramid as it would consist of an extremely squat building in the corner.*” Which corner?

Also in Bullet point 2 on 6-12, the DEIR concludes that: “*This alternative would not create a slender project setback from the Transamerica Pyramid to preserve views from nearby locations and would not include the twist designed to complement the Pyramid’s unique, sloping shape.*” How does the twisted shape compliment the Pyramid? Is a twisted shape a design criterion?

The statement contained in Bullet point 3 on page 6-29 that the preservation alternative would not be consistent with neighborhood aesthetic or highlight Jackson Square “*as it would not include the tall, modern design intended to contrast and highlight Jackson Square Historic District*” is inconsistent with the objectives and policies of the Downtown Plan for the reasons stated above.

WHERE IS THE DEMONSTRATED PUBLIC BENEFIT?

What are the special public benefits that would justify a **spot zoning** this one site, along with vacation of a public street and the granting by the City of numerous exemptions, variances and conditional use authorizations? As discussed below, the proposed “benefits” are not adequately demonstrated in the DEIR.

Expansion of Redwood Park and transfer to the City – the shadow trade-off deal

The project description states that “*Redwood Park would expanded, renovated and improved and the ground level portion conveyed to the City as a new public park.*”

Although it is hard to argue that the City should not acquire additional parks and open space areas in this dense urban area, the details of this particular opportunity must be fully understood.

According to the DEIR, the project sponsor is proposing to expand Redwood Park by approximately **4,000 sq feet** (from 17,980 to 22,022 sq feet) and transfer it to the City as a new public park as a trade with the Recreation and Park Department whereby new shadows would be allowed on two existing public park sites (Sue Bierman Park and Maritime Plaza) which are protected by the City’s Sunshine Ordinance (Prop K). To what extent does this trade-off represent a benefit to the City?

Ironically, the project sponsor cannot meet the requirements of the Planning Code to provide on-

site open space for the proposed residential project, which necessitates the acquisition from the City of a public street (Mark Twain Alley) to satisfy a portion of the open space requirements, and seeking a special open space Variance from the City for the rest.

This proposed “public benefit” raises issues not adequately addressed in the DEIR:

- Exactly what open space areas are included in the 4,000 sq foot calculation? Where is it located? Please include a depiction of the existing and proposed areas of “Redwood Park” including measurements of the current and proposed areas within “Redwood Park.” Please describe specifically where the additional “open space” would be created and what is proposed to be located within it – for example; will the existing restaurant be replaced with an outdoor eating terrace/area? Show the area within Mark Twain Alley to be used to satisfy the open space requirements for the new residential units. Is any of the current open area surrounding the Transamerica Pyramid building included in the calculation of the expanded “Redwood Park”? Is the area within Mark Twain Alley which is proposed for vacation as a part of this project included in the calculations of the “expanded” Redwood Park”? These and many other questions are not answered in the DEIR.
- The DEIR states repeatedly that Redwood Park is private and that public access is not guaranteed. The DEIR fails to clearly explain the ownership history of the former Merchant Street and the relationship of the creation of the open space within Redwood Park to the previous and current project. What is the legal relationship of the existing open space to the numerous approvals associated with the Transamerica Pyramid, including the various ordinances and property exchanges related to the vacation of Merchant Street?
- According to the DEIR, if the developer chooses the housing variant, the developer is planning to provide a portion of the required open space on the surface of the now “publicly owned” street and will be asking the City to grant it a Variance from the rest of the open space requirements since there will not be enough open space available on the site to meet all of the Code-mandated open space. Please provide the exact calculations of the requirements and how the developer is proposing to satisfy them. Exactly how much open space is required by the Planning Code to be provided for each of the proposed project variants and how will it be met?
- The DEIR failed to analyze the impact on “Redwood Park” of any proposed Variance from the Planning Code’s open space requirements, taking into consideration the fact that the new residents of the proposed project will be using the proposed “public park” to make up for their lack of open space in the project. How would the number of new residents in the proposed project impact the use of a public Redwood Park (if the City accepts its dedication) as well as other neighborhood parks and recreational facilities? As to the proposed dedication of Redwood Park to the City, how can there be private ingress and egress to the project’s residential lobby or to retail spaces over a “public park”?
- The DEIR states that the only the “*ground level portion*” of Redwood Park would be conveyed to the City as a new public park. Would the project sponsor retain the air rights? Does this mean the project sponsor would retain the development rights above the park for the purpose of

transferring or selling them? Would the developer get some form of monetary or development credit for the air rights? If this becomes a public park, would development credits be allowable? Would the project sponsor retain ownership of the land under the surface of the park?

- The DEIR should examine what public benefits would result from the City taking title to Redwood Park instead of maintaining the park in private ownership for public use as it is now. Even if the City determines to approve the proposed project, why would it take title instead of requiring the developer to maintain it for public use in perpetuity?
- Although it is hard to argue that the City should not acquire additional open space in this dense urban area, why would the City want to accept title to Redwood Park, particularly without the air rights? Why would the City want to acquire additional parkland at a time when it is laying off park rangers and park staff and cutting its park budget? How will the RecPark Department fund the operation and maintenance of this “gift” in perpetuity? Why should the City assume this additional liability?

CONCLUSION AND RECOMMENDATIONS

This proposed project to double the existing 200-foot height limit and build a modern, glass building in a prime and extremely visible location on the edge of the Jackson Square Historic District has taken the neighborhood by surprise. Clearly this proposed project would impact the residents and visitors of North Beach and Telegraph Hill and have profound implications on the urban form of San Francisco.

For all the reasons stated in this letter, we believe this DEIR is seriously incomplete and inadequate to address the potentially significant impacts of this precedent-setting project. We urge you to revise the document and re-circulate it in draft form.

We hope the information provided in this letter will contribute to the Department’s and the Commission’s thorough review and decision on this precedent-setting proposal.

We again request that THD be included on the list to receive all notices and documents relating to this project and its environmental review.

Sincerely,

Sincerely,



Vedica Puri
President

Bill Wycko
May 14, 2009
Page 18

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